

**MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE
BY A PERSON IN FEDERAL CUSTODY**

- (1) This motion must be legibly handwritten or typewritten and signed by the movant under penalty of perjury. Any false statement of a material fact may serve as a basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.
- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) This motion must be filed within 1 year of the latest of: (1) the date on which the judgment of conviction becomes final; (2) the date on which the impediment to making a motion created by governmental action in violation of the constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action; (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.
- (4) A second or successive motion must be certified as provided in 28 U.S.C. § 2244 by a panel of the United States Court of Appeals for the Eighth Circuit before a second or successive motion may be filed in the district court. Submit a copy of the appropriate certification with these forms if this is a second or successive motion.
- (5) Upon receipt, your motion will be filed if it is in proper order. No fee is required with this motion.
- (6) If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed in forma pauperis in which event you must execute a declaration on the last page, setting forth information establishing your inability to pay the costs. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (7) Only judgments entered by one court may be challenged in a single motion. If you seek to challenge judgments entered by different judges or divisions either in the same district or in different districts, you must file separate motions as to each such judgment.
- (8) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the motion you file seeking relief from any judgment of conviction.
- (9) When the motion is fully completed, the original and one copy must be mail to the Clerk of the United States District Court whose address is 400 East Ninth St., Kansas City, Missouri 64106.
- (10) Motions which do not conform to these instructions will be returned with a notation as to the deficiency.

MOTION PURSUANT TO SECTION 2255 OF TITLE 28
UNITED STATES CODE
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ATTACKING A SENTENCE IMPOSED BY THAT COURT

Name: _____

Prison Number: _____

Place of Confinement: _____

United States District Court _____ District of Missouri _____

Case No. _____ (to be supplied by Clerk of

U.S. District Court) Sentencing Judge _____

United States

v.

(full name of movant)

(If movant has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion in the federal court which entered the judgment).

MOTION

1. Name and location of court which entered the judgment of conviction
under attack _____

2. Date of judgment of conviction _____

3. Length of sentence _____

4. Nature of offense involved (all counts) _____

5. What was your plea (Check one)

(a) Not guilty []

(b) Guilty []

(c) Nolo contendere []

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. Kind of trial (Check one)

(a) Jury []

(b) Judge only []

7. Did you testify at the trial?

Yes [] No []

8. Did you appeal from the judgment of conviction?

Yes [] No []

9. If you did appeal, answer the following:

(a) Name of court _____

(b) Result _____

(c) Date of Result _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes [] No []

11. If your answer to 10 was "YES" give the following information:

(a) (1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes [] No []

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes [] No []

(5) Result _____

(6) Date of result _____

(c) As to any third petition, application or motion, give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes [] No []

(d) Did you appeal to an appellate federal court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc.	Yes []	No []
(2) Second petition, etc.	Yes []	No []
(3) Third petition, etc.	Yes []	No []

(e) If you did not appeal from the adverse action on any petition, application or motion, state briefly why you did not:

12. State **concisely** every ground on which you claim that you are being held unlawfully. Summarize **briefly** the facts supporting each ground. If necessary, you may attach pages stating additional grounds and **facts** supporting same.

CAUTION: If you fail to set forth all grounds in the motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded

by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction was obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (d) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose evidence favorable to the defense.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground One: _____

Supporting Facts (tell your story briefly without citing cases or law): _____

B. Ground Two: _____

Supporting Facts (tell your story briefly without citing cases or law): _____

C. Ground Three: _____

Supporting Facts (tell your story briefly without citing cases or law): _____

D. Ground Four: _____

Supporting Facts (tell your story briefly without citing cases or law): _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes [] No. []

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing _____

(b) At arraignment and plea _____

(c) At trial _____

(d) At sentencing _____

(e) On appeal _____

(f) In any post-conviction proceeding _____

(g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes [] No []

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes [] No []

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) And give date and length of sentence to be served in the future:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes [] No []

I declare under penalty of perjury that the foregoing is true and correct.

Executed (signed) this _____ day of _____, 20____.

Signature of Attorney (if any)

Signature of movant